



S93,994

1638
#21
Election

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Chris R. Somerville et al.

Serial No. : 09/686,234

Art Unit: 1638

Filed : Oct 11, 2000

Examiner: Kruse, David H.

Title : Modified Cellulose Synthase Gene From Arbidopsis Thaliana Confers Herbicide Resistance to Plants

Response to Restriction Requirement

RECEIVED

The Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231



31970
PATENT TRADEMARK OFFICE

APR 28 2003

TECH CENTER 1600/2900

Sir:

This is responsive to the Office Action of March 25, 2003, referencing the above identified case. Applicants elect claims 1-8. However, the requirement for election is traversed.

The Examiner claims that the Application contains three distinct inventions: invention I (claims 1-8), invention II (claims 9-14) and invention III (claims 15-21), and therefore restriction is required. Applicant's respectfully submit that Examiner has failed to make a prima facie showing that the inventions are unrelated. In fact, inventions I, II, and III are very related in that they are all mutants of the same cellulose synthase gene, perform similar functions and have similar effects (providing herbicide resistance). Their similarity suggests that all three inventions would be acquired the same or similar classification and that a search required for one of the groups will also be required for the others. For these reasons, it is respectfully suggested that the Examiner will not be seriously burdened in searching and considering all of

S93,994

the claims in the Application. See, Manual of Patent Examining Procedures § 803.

Finally, even if Examiner is correct in stating that the different inventions are unrelated, the United State Patent and Trademark Office has stated that it will examine up to ten independent and distinct nucleotide sequences in a single application without restriction. See, 52 BNA 716-717, 728-30, Oct. 31, 1996; Official Gazette, Nov. 19, 1996. Therefore, Applicants respectfully request consideration of all the claims present in the Application.

Respectfully Submitted,



Brian J. Lally
Registration No. 51,911
Attorney for Applicants
(630) 920-8679
Date: 4/22/03